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June 1, 2020

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Via ECF

Hon. Lewis J. Liman  
United States District Judge  
500 Pearl Street, Room 701  
New York, NY 10007

Grossman Enterprises LLC v. Hubbard Broadcasting, Inc. et al,  
1:20-cv-03023-LJL

Dear Judge Liman:

This firm represents Defendant NYP Holdings, Inc. (“NYP”), publisher of the *New York Post*. I write on behalf of all parties to make an application on behalf of all of the Defendants in the action to adjourn the Initial Pre-trial Conference in this matter, which is currently scheduled to take place by telephone on June 23, 2020, at 11:00 a.m. The Defendants respectfully and jointly request that the Initial Pre-trial Conference be

MINTZ & GOLD LLP  
ATTORNEYS AT LAW

Hon. Lewis J. Liman  
June 1, 2020  
Page 2

adjourned for 30 days.<sup>1</sup> Plaintiff's counsel have advised that they do not object to this adjournment on the conditions set forth below.

I also write to request that the Court enter an order directing that all Defendants shall answer, move, or file a letter indicating an intention to move under Rule 12, Fed. R. Civ. P., with respect to the Complaint no later than eight (8) business days prior to the rescheduled conference. Plaintiff has agreed to this schedule (other than with respect to Getty as described below) on the condition that all of the remaining Defendants waive service of process and any objections based on service of process. Other than Getty Images, no Defendant has been served with process and none has yet appeared in the action. All Defendants have agreed to that condition with the exception of Defendant Getty Images.

Getty Images was duly served on May 27, 2020, and its answer will be due on June 17, 2020.

Plaintiff's counsel has advised that they are unwilling to extend the time for Getty Images to respond because Getty Images required Plaintiff to incur the time and expense to formally serve it with process, and because it failed to cooperate with service of the Complaint, which Getty has been in possession of since April 16, 2020. Getty has taken the position that the wrong Getty affiliated entity has been sued, but Plaintiff's position is that Getty failed to provide Plaintiff with any documentation substantiating this position, despite the fact that Getty was aware since before the Complaint was filed that the entity Plaintiff was pursuing was the entity that has been sued while Getty remained silent on that issue. Plaintiff is of the view that Getty should not be rewarded for this conduct with a further extension to respond, since it will have had the Complaint for over sixty (60) days at the time the response is currently due.

Defendants, by contrast, believe that for the following reasons it would be appropriate to extend Getty Images' time to respond to the Complaint to coincide with that of the other Defendants.

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<sup>1</sup> I have conferred with the attorneys for Defendants Getty Images, Inc. ("Getty Images"), Hubbard Broadcasting, Inc. ("HBI"), ReelzChannel, LLC ("Reelz"), AMS Pictures, Inc. ("AMS"), Zuma Press, Inc. ("Zuma"), Shutterstock, Inc. ("Shutterstock"), and Rex Features Limited ("Rex"), who have not yet appeared in the action, but who I can represent are in agreement with the proposed realignment of the dates to respond to the Complaint and to appear for the Initial Pre-trial Conference. Each attorney is copied on this letter and has consented to this letter.

MINTZ & GOLD LLP  
ATTORNEYS AT LAW

Hon. Lewis J. Liman  
June 1, 2020  
Page 3

Specifically, following consultation with counsel for Plaintiff as well as in-house counsel for Getty Images, I understand that the genesis of the controversy concerns whether Getty Images is the appropriate Getty affiliate to have been named in the Complaint. Getty Images was originally unwilling to accept service because it wanted to make a clear record that Plaintiff's claim should have been brought in the first instance against the proper Getty affiliate.

Defendants acknowledge Plaintiff's position, but respectfully propose that, for simplicity and efficient case management purposes, fixing a single date for responding to the Complaint may be preferable to piecemeal and staggered dates. As such, Getty Images requests that its date to respond to the Complaint be extended to the same date as for the other Defendants.

The reason for the foregoing requests is that counsel for all parties believe that additional time will assist the numerous Defendants in investigating the facts and permit the parties to explore settlement at a very early stage of the proceedings. No prior requests have been made for an adjournment.

Accordingly, Defendants respectfully request that the Court: (1) reschedule the Initial Pre-trial Conference, currently scheduled for June 23, 2020, to a date 30 days later, such request being made upon the consent of all parties, and (2) so order that the time for all Defendants to answer, move, or file the pre-motion letter described in the April 20 Order and the Court's individual rules of practice is extended until eight (8) business days prior to the new date for the Initial Pre-trial Conference.<sup>2</sup> Plaintiff consents to this schedule except with regard to Getty Images, which Plaintiff requests be ordered to respond to the Complaint by June 17, 2020 for the reasons set forth above.

Respectfully submitted,

*/s/ Steven G. Mintz*

Steven G. Mintz

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<sup>2</sup> If the Court decides that it will not provide Getty Images with the same accommodation that has otherwise been consented to for all other Defendants, the other Defendants request that the Court approve the enlargement of the time to respond to the Complaint for all other Defendants to the extent consented to by Plaintiff.

MINTZ & GOLD LLP  
ATTORNEYS AT LAW

Hon. Lewis J. Liman  
June 1, 2020  
Page 4

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*Counsel for Zuma Press, Inc.*

Application GRANTED. The Initial Pretrial Conference is RESET to July 24, 2020 at 11:30 a.m. It will proceed telephonically. Parties are directed to call (888) 251-2909 and use access code 2123101. The parties shall submit a proposed Case Management Plan and Scheduling Order one week prior.

IT IS FURTHER ORDERED that the time for all Defendants to answer, move, or file the pre-motion letter described in the April 20 Order and the Court's Individual Rules of Practice in Civil Cases is ADJOURNED to eight (8) business days prior to the newly-adjournd Initial Pretrial Conference date.

6/1/2020



LEWIS J. LIMAN  
United States District Judge